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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,731	08/21/2003	Francois Vardon	241763US6 DIV	6198
22850	7590	02/25/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,731

Applicant(s)

VARDON, FRANCOIS

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) 10-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/21/2003 /& 11/29/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 1010701803
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/21/03. (Correction)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the refrigerator and the clip securing the panel to the plastic structure must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Namely, nowhere in the specification, as originally filed, is it stated (or can it be implied) that the recess of the plastic structure can have a depth of as much as 4 mm. Just because the plastic structure as a whole can shrink up to 4 mm does not imply that its recess can have a depth this same dimension.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 9 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Westerburgen et al (EP 520,577). Westerburgen teaches a “shelf” (Figs 2 and 3) comprised of a panel (1) and a plastic structure (2) attached to the panel at its edges and holding the panel in a recess thereof “via a compressive lateral pressure” (formed by shrinkage of the structure; similar to the process specified in the disclosed invention).

Claims 1, 2, 9 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by French patent 2,053,627. The French patent teaches a "shelf" (Fig. 4) comprised of a panel (5) and a plastic structure (1) attached to the panel at its edges and holding the panel in a recess thereof "via a compressive lateral pressure" (formed by shrinkage of the structure; similar to the process specified in the disclosed invention).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7-9, 20 and 21 are rejected under 35 U.S.C. 102(b) as anticipated by Caruso et al or, in the alternative, under 35 U.S.C. 103(a) as obvious over Westerborgen et al (EP 520,577). Caruso teaches a refrigerator shelf (12) comprised of a panel (30) and a plastic structure (34) attached to the panel at its edges (during a molding process wherein "lateral pressure" would inherently being applied). Furthermore, elements (16) having first, second and third parts (56,28 and 54, respectively) are attached to the bottom of the shelf. For claim 1, Caruso fails to specifically teach that the plastic structure applies a compressive lateral pressure to hold the panel therein. (Although this limitation borders on a process step, a 103 rejection is being provided because of the "pressure's" use as part of a connection means.) Westerborgen teaches a "shelf" (Figs 2 and 3) comprised of a panel (1) and a

plastic structure (2) attached to the panel at its edges and holding the panel in a recess thereof "via a compressive lateral pressure" (formed by shrinkage of the structure; similar to the process specified in the disclosed invention). It would have been obvious to one of ordinary skill in the art at the time of the invention to use an alternate means/process to attach the panel and plastic structure together, i.e. using a shrinkage process, such as is taught by Westerborgen, instead of the molding process presently used, since these processes are functional equivalents and either would work equally well for attaching the structure to the panel. The end process of Westerborgen forming a tight connection between the members. Note: product be process limitations are given no weight in article claims.

For claim 4, Caruso/Caruso in view of Westerborgen fails to teach that the plastic structure is made of two different plastics. The examiner takes Official notice that plastic structures constructed using two different types of plastics are well known in the art. Therefore, it would have been obvious to use two different plastics in the plastic structure of Caruso, since this type of product is well known in the art, e.g. for acquiring a specific frame strength, directed flexibility, etc. For example, the flexible plastic would be useful adjacent the glass panel for panel insertion reasons and the more rigid plastic would be useful adjacent the elements for a stronger point of attachment.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Caruso/Caruso et al in view of Westerborgen as stated above and further in view of Herrmann et al (5,524,981). Caruso/Caruso in view of Westerborgen teaches a shelf (12) made up of a plastic structure (34) forming a continuous internal U-shaped

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recess/channel (see Figs. 2 and 4) which holds a glass panel (30) therein. For claim 5, Caruso/Caruso in view of Westerborgen fails to teach a clip to hold the glass and plastic structure together. Herrmann teaches a shelf wherein a glass sheet (22) is helped held in a frame channel (24) by a clip (82). The clip is part of a drainage system provided on the shelf (Fig. 11). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shelf of Caruso/Caruso in view of Westerborgen by adding a drainage system with clip between the structure and glass panel, such as is taught by Herrmann, to provide a drainage system on the shelf.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Caruso/Caruso et al in view of Westerborgen as stated above and further in view of Cherry et al. Caruso/Caruso in view of Westerborgen teaches a shelf (12) made up of a plastic structure (34) forming a continuous internal U-shaped recess/channel (see Figs. 2 and 4) which holds a glass panel (30) therein. For claim 6, Caruso/Caruso in view of Westerborgen fails to teach a bond/adhesive between the glass and plastic structure. Cherry teaches a shelf wherein a glass sheet is held in a frame channel via adhesive (see column 2, lines 59-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shelf of Caruso/Caruso in view of Westerborgen by adding adhesive between its structure and glass panel, such as is taught by Cherry, to provide a means to more securely/permanently hold the glass panel within the structure channel.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Westerborgen et al (EP 520,577). As stated above, Westerborgen teaches the

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limitations of claim 1, including a plastic structure. For claim 4, Westerborgen fails to teach that the plastic structure is made of two different plastics. The examiner takes Official notice that plastic structures constructed using two different types of plastics are well known in the art. Therefore, it would have been obvious to use two different plastics in the plastic structure of Westerborgen, since this type of product is well known in the art, e.g. for acquiring a specific frame strength, directed flexibility, etc. For example, the flexible plastic would be useful adjacent the glass panel for panel insertion reasons and the more rigid plastic would be useful adjacent the elements for a stronger point of attachment.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Westerborgen et al (EP 520,577) in view of Cherry et al. As stated above, Westerborgen teaches the limitations of claim 1, including a plastic structure with a recess/channel. For claim 6, Westerborgen fails to teach a bond/adhesive between the glass and plastic structure. Cherry teaches a shelf wherein a glass sheet is held in a frame channel via adhesive (see column 2, lines 59-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shelf of Westerborgen by adding adhesive between its structure and glass panel, such as is taught by Cherry, to provide a means to more securely/permanently hold the glass panel within the structure channel.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over French patent 2,053,627. As stated above, the French patent teaches the limitations of claim 1, including a plastic structure. For claim 4, the French patent fails to teach that the plastic

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structure is made of two different plastics. The examiner takes Official notice that plastic structures constructed using two different types of plastics are well known in the art. Therefore, it would have been obvious to use two different plastics in the plastic structure of the French patent, since this type of product is well known in the art, e.g. for acquiring a specific frame strength, directed flexibility, etc. For example, the flexible plastic would be useful adjacent the glass panel for panel insertion reasons and the more rigid plastic would be useful adjacent the elements for a stronger point of attachment.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over French patent 2,053,627 in view of Cherry et al. As stated above, the French patent teaches the limitations of claim 1, including a plastic structure with a recess/channel. For claim 6, the French patent fails to teach a bond/adhesive between the glass and plastic structure. Cherry teaches a shelf wherein a glass sheet is held in a frame channel via adhesive (see column 2, lines 59-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shelf of the French patent by adding adhesive between its structure and glass panel, such as is taught by Cherry, to provide a means to more securely/permanently hold the glass panel within the structure channel.

Response to Arguments

Applicant's arguments filed November 29, 2004 have been fully considered but they are not persuasive.

In response to applicant's arguments that Caruso's panel and plastic structure are not held together by compressive lateral pressure: first, the examiner contends that the pressure applied to the panel is part of the process of making the shelf and that the shelves of the instant application and Caruso have the same resulting structure. Note: process limitations are not considered in article claims. Furthermore, the arguments concerning the method of forming the shelf are not relevant in overcoming art applied to article claims. Second, the examiner still contends that some lateral pressure would be inherent between the edges of the panel and plastic structure of Caruso. As shown in Fig. 4, the glass panel of Caruso is tightly fit within its plastic structure after the finished molding process; this would imply that the plastic structure is shrunk more than the glass panel. This process and gravity, for example, would result in some degree of pressure being applied to edge portions of the panel. Furthermore, as shown by the newly applied art of Westerborgen et al (EP 520,577) and French patent 2,053,627, the shrinkage process is well known. Finally, it is unclear why a clip would be necessary (see claim 5) if the "lateral pressure" is to be considered the means holding the panel in the plastic structure. Note: new claim 1 has more than the subject matter of claim 3 newly incorporated therein. The compressive lateral pressure applied to the edge of the panel to assemble the panel with the plastic structure is new.

As for the Official notice taken in the previous Office action: since no argument was presented rebutting the statement made, the statement stands and no future discussion will be entertained.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

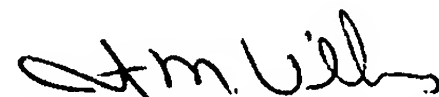
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
February 17, 2005


JANET M. WILKENS
PRIMARY EXAMINER
Art 3637